



## Pre-lodgement Meeting Notes

**Application No:** PLM2021/0218  
**Meeting Date:** 7 October 2021  
**Property Address:** 291 and 293 Condamine Street MANLY VALE  
**Proposal:** Construction of a Shop Top Housing Development  
**Attendees for Council:** Steven Findlay – Manager, Development Assessment  
Nic England – Planner  
Adam Croft – Planner  
Miller French-Lightfoot – Student Planner  
James Brocklebank – Traffic  
Cathryn Hannemann – Waste Education Officer

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### General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only.

These notes are an account of the advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the meeting. The notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority.

A determination can only be made following the lodgement and full assessment of the application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.



## SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

### Response to Matters Raised by the Applicant

Relevant to the discussion are the comments made by the Design + Sustainability Advisory Panel (DSAP), at its meeting of 23 September 2021. The minutes to this meeting have been sent separately, however for the benefit of these notes, the conclusion of the Panel's report is reproduced as follows:

***“The Panel does not support the proposal in its current form; a complete re-design, reduction in the overall building envelope and different architectural strategy is required.***

*It is likely that there will be a reduction in the number of apartments to achieve an adequate level of amenity on this highly constrained site.*

*The applicant may wish to consider a different type of accommodation.”*

The Panel made a total of 22 design recommendations in its report. These notes will provide clarification on these recommendations where relevant, in addition to any other matters that are considered relevant to the applicable environmental planning instruments and development policies.

The focus of these notes is to provide definitive advice on the future development of the site, despite previous advice / PLM's and to incorporate those aspects of the recommendations made by DSAP.

## STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT / APARTMENT DESIGN GUIDE

The DSAP has provided detailed advice on the provisions of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development / Apartment Design Guide (ADG) in its report.

These notes will concentrate on Part 1 – Identifying The Context, as it relates to a fundamental issue with the proposal's design at the ground floor.

Part 1 encourages shop-top development to provide active street frontages, to improve the public amenity in neighbourhood commercial areas. The provision of a vehicular access point from Condamine Street restricts the potential to create a focal point on the south-east corner of the building, at the ground floor. The frontage of Condamine Street should be emphasised with retail space to create an active streetscape.

As discussed at the meeting, this will require significant changes to the layout of the ground floor based on: vehicular access only on west elevation from Somerville Lane; providing more useable retail floor space on Condamine Street; changes to the configuration of the car parking layout; and relocation of the waste storage room to be accessed from Condamine Street at the north-east corner of the building.

On the levels above, changes will be required to the configuration of the apartments to achieve natural light and ventilation requirements of Part 4D of the SEPP.



## WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)

The following clauses of WLEP 2011 are relevant to the proposal:

WLEP 2011 can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0649>

Part 2 - Zoning and Permissibility	
Definition of proposed development: (ref. WLEP 2011 Dictionary)	Shop-top housing
Zone:	B2 Local Centre
Permitted with Consent or Prohibited:	Permitted with Consent

Part 4 - Principal Development Standards			
Standard	Permitted	Proposed	Compliance
4.3 Height of Buildings	11m	12.6m	No (13% variation)

As the variation to the development standard exceeds 10%, any application would need to be reported to the Northern Beaches Local Planning Panel (LPP).

In the context of the issues identified by DSAP, the extent of the variation is not supported in principle. However, as discussed at the meeting, the opinion of Council's Development Assessment Planner is that the upper (3<sup>rd</sup>) floor is to be the subject to further amendments to reduce the visual impact of the proposal and create a more acceptable built form when viewed from Condamine Street.

In real terms, the upper level will need to be stepped back and hence reduced in floor area. The reduction is mostly required at the eastern end of the site facing Condamine Street.

### Clause 4.6 - Exceptions to Development Standards

Clause 4.6 enables the applicant to request a variation to the applicable Development Standards listed under Part 4 of the LEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court.

A request to vary a development Standard is not a guarantee that the variation would be supported as this needs to be considered by Council in terms of context, impact and public interest and whether the request demonstrates sufficient environmental planning grounds for the variation.

As stated previously, the proposed variation to the Height of Buildings development standard is not supported given that the current design does not create an adequate contextual relationship with the surrounding streetscape and potential concerns with the amenity of adjoining residences to the south, as identified by DSAP.

Hence in its current form, it is not likely that it could be successfully argued that the standard is both unnecessary and unreasonable to apply under the circumstances.



## WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

WDCP 2011 can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/pages/plan/book.aspx?exhibit=DCP>

The following notes identify the relevant / non-compliant areas of the proposal only.

<b>Part B Built Form Controls</b>		
<b>Control</b>	<b>Permitted</b>	<b>Proposed</b>
<b>B2 Number of Storeys</b>	3	4
<p><u>Comment:</u> This control is representative of the overall objectives for new development in the Condamine Street local centre, which is to ensure that new development will not: visually dominate the surrounding area; and not cause adverse amenity impacts to adjoining residences. In its current form, the non-compliance is not supported. However, the potential for a limited fourth storey, however only if this level is reduced in size and / or re-designed to take into account the following factors:</p> <ul style="list-style-type: none"> <li>• Reducing visibility from Condamine Street;</li> <li>• Creating an adequate relationship with Somerville Lane;</li> <li>• Ensuring no adverse amenity impacts to the residences to the south of the site; and</li> <li>• Being compatible in bulk and scale when viewed from the residential zone to the west.</li> </ul>		
<b>B6 Merit Assessment of Side Boundary Setbacks</b>	No numerical control / merit assessment	Nil (north and south)
<p><u>Comment:</u> Given the narrowness of the site, nil setbacks on the ground, 1<sup>st</sup> and 2<sup>nd</sup> floor is reasonable. However the top level may require the utilisation of a side setback on the south boundary fronting Somerville Lane, to assist with creating an adequate context with the public domain and not causing an adverse impact on the amenity of adjoining shop-top residences to the south.</p>		
<b>B7 Front Boundary Setbacks</b>	Ground / 1 <sup>st</sup> floor: maintain street setback 2 <sup>nd</sup> floor: 5m	Nil (ground); 2m (1 <sup>st</sup> ); 2-4m (2 <sup>nd</sup> )
<p><u>Comment:</u> The 2<sup>nd</sup> floor is setback at 2m (terrace) and 4m for the façade of the building. This setback is insufficient to achieve the relevant objectives of the control, which is to protect and enhance the visual quality of streetscapes and public spaces. As for the upper level, given that this level is both inconsistent with the height standard and the storey control, much greater attention needs to be given to any front setback on this level, to significantly minimise the visual presence of this level when viewed from Condamine Street.</p>		
<b>B10 Merit assessment of rear boundary setbacks</b>	No numerical control / merit assessment	1m (ground, 1 <sup>st</sup> floor, 2 <sup>nd</sup> floor); 1 – 2.9m (3 <sup>rd</sup> floor)
<p><u>Comment:</u> The setback on the upper level is insufficient to minimise the potential visual and other amenity impacts when viewed from the adjoining residences / residential zone to the west. Note that DSAP recommended a rear setback on this level of 5m, as an alternative to deleting this level.</p>		



Part C Siting Factors / Appendix 1 Car Parking Requirements		
Control	Permitted	Proposed
<b>C3 Parking Facilities</b>	Retail - 1 space per 16.4 m2 GLFA: 2.2 (3) spaces Residential – 6 x 1 br; 2 x 2br; 1 x 1br: 9.9 (10) spaces Visitor - 1 per 5 units: 1.8 (2) spaces	15 spaces (complies)
<p><b>Comment:</b> Refer to the comments from Council's Traffic Engineer further in these notes. In summary, a reduced parking provision of 11 spaces, consistent with the Dee Why Town Centre requirements of the DCP is supported. This will also reduce the reliance on car stackers, which should not apply to the majority of the parking spaces. Whilst the recommendation to delete the Condamine Street access point will lead to increased retail / office space, the extra parking required for these uses may not be required, if loading zones can be utilised on the adjoining bus lane or retail spaces within the development be used jointly as both staff parking / loading zones. The recommendations in relation to the upper level is likely to result in a lesser number of units, which will further reduce the maximum parking required.</p>		

Part F Zones and Sensitive Areas		
Control	Permitted	Proposed
<b>F1 Local and Neighbourhood Centres / Manly Vale</b>	<i>11. Manly Vale Condamine Street will be enhanced by ensuring the design of buildings and use of land maintains activity at street level and creates a cohesive and attractive streetscape. Vehicle access will be provided from streets other than Condamine Street.</i>	Vehicular access is provided from both Condamine Street and Somerville Lane. Limited retail frontage is provided to Condamine Street.
<p><b>Comment:</b> As stated previously, it is recommended that the Condamine Street access be removed and only access be provided from the Somerville Lane / west elevation. Stronger retail / office presence is recommended on the Condamine Street frontage. This will bring the development into compliance with this aspect of the DCP.</p> <p>As also discussed at the meeting, despite the presence of existing shop-top housing in the vicinity that is currently accessed off Condamine Street, the future intention is that all access to the site be from Somerville Lane (refer to Strategic Planning comments).</p> <p>The concurrence of the NSW Roads &amp; Maritime Service (RMS) will be required for any new opening on Condamine Street. Recent experience is that the RMS is generally not in favour of this, as it disrupts the future public transport intentions on this State road.</p>		



## Specialist Advice

### Development Assessment

Council's Development Planner – South Team, has provided the following comments:

*“The below advice should be read in conjunction with the previous advice provided in relation to PLM2021/0163. Where there are inconsistencies in the advice contained within the notes, the below comments take precedence.*

#### 1. **Vehicular Access**

*It is Council's preference that the parking and vehicular access to the site is via Somerville Place. The deletion of the proposed Condamine Street access would provide the following benefits:*

- i) Improved activation of the Condamine Street retail frontage, including opportunities for a corner retail frontage*
- ii) Improved relationship with the pedestrian laneway at the southern boundary*
- iii) Potential for increased commercial floor area at the ground level*
- iv) Potential for improved residential access to the building*
- v) More practical access to the bin store to comply with Council requirements*

#### 2. **Building Height and Setbacks**

*For the non-compliant third floor to be considered by Council, the application would need to demonstrate that the upper level is not visible from the public domain to the east, and will not unreasonably impact the amenity of the residential properties to the south and west. This is likely to require further increases to setbacks and an overall reduction to the footprint of this upper level.*

*In relation to the building façade, Council may consider calculating the front setbacks to the building wall where the associated front terraces/balconies are a transparent design or are not visually apparent from the streetscape or public domain to the east. Further advice regarding building height, number of storeys and setbacks is included in these notes.*

#### 3. **Internal Amenity**

*As previously advised by Council and the DSAP, the internal configuration of many of the apartments is unacceptable and will provide limited amenity to the occupants. A significant redesign and rationalisation of the internal layouts is required to ensure that adequate solar access, privacy, ventilation and overall amenity can be achieved in accordance with the requirements of the ADG. “*

### Strategic Planning

Council's Principal Planner - Strategic Planning has provided the following advice:

*“I have reviewed records re PLM on 20 July 2021, DSAP 23 Sept 2021 & PLM2 7 October 2021. I support the use of an existing rear access lane to provide rear lane access to the proposed development which fronts a Main Road and would require RMS approval to disrupt road functions along Condamine St. I also support adherence to the 3 storey limit noting that LEP Review are only investigating minor increases in the zone for the purposes of adequate floor to floor clearance only. Variations to the 11m height for the purpose of adding additional non-compliant storey is a real concern in the Manly Vale B2 zone more widely as Council has been clear in its recent LEP*



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*Discussion Paper that proposed height increase be minor and to improve amenity (e.g. higher ceilings), not to squeeze in another storey.*

*To the specific question of Somerville Place, the need for acquisition is not clear to me. Council had already pedestrianised the southern end of the lane running along the southern side of the site and appears have retained some part of the lane at the southern end for a turning area. Should the development require further access area at the lane for proposed parking to meet engineering requirements that would appear to be a reasonable and appropriate condition of any development to provide onsite. I also support Council's Urban Designers and DSAPs' recommendations for a rear setback for some landscaping."*

### Traffic Engineers

Council's Traffic Engineer has provided the following advice:

- *"It is noted that the development proposes access both from Condamine Street and Somerville Place. Advice given at the earlier Pre DA was that..." As a general principle, for safety reasons, access to/from a major road is to be avoided. Both the RMS guide to Traffic Generating Development (section 6.2.1) and the Australian Standard for offstreet parking AS2890.1 (Table 3.1 note 2) recommend against locating driveways on a major road frontage. Access to and from the site would be preferred from Somerville Place where traffic volumes are lower, where sight lines would not be obscured by parked vehicles, where pedestrian/vehicle conflict would be minimised and where vehicles slowing to enter the property would not impede or pose a risk to high volume through traffic safety. As an alternative, to reduce the movements to and from the driveway to Condamine Street an option involving two driveways, one to Condamine and another to Somerville Place could be considered, similar to that provided for the development at No. 299 Condamine Street." The provision of access to both Condamine St and Somerville Place is therefore not opposed although not my preferred option.*
- *If a new point of vehicular access is to be sought to/from Condamine Street it would require support and approval from TfNSW. DA plans would in that case, need to be referred to TfNSW for their concurrence.*
- *Swept path plots should be provided to demonstrate that forwards entry and exit to and from the public road and all parking spaces is possible in a forwards direction*
- *The driveway width should be 5.5m for at least the first 6m inside the property boundary particularly for access off Condamine St to minimise vehicle conflict and the need for queuing on the public road. This appears to have been provided.*
- *vehicle access points must have a pedestrian sight line triangle consistent with the requirements of AS2890.1 section 3.2.4(b). This appears to be available at both driveways*
- *Dedication of a strip of land on the Somerville Lane frontage of the site will be required to allow for widening of the lane to a width of 5.5m to allow for safer two way traffic flow and safer pedestrian use of the lane. This is consistent with a number of other recent approvals for properties fronting Somerville Place. It is noted that a 1m setback has been provided which is*



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*not quite the same. The developer would need to enter into a VPA agreement to formalise the dedication of land to Council.*

- *DCP parking requirements are 1 space for every 16.4sqm of retail space i.e 2.2 spaces to support the currently proposed retail area. Given the proximity of the site to B Line bus stop (200m away) a reduced level of parking provision for residential uses similar to that required for Dee Why Town Centre is considered acceptable i.e 0.6 spaces per 1 bed, 0.9 spaces per 2 bed, 1.4 spaces per 3 bed and 1 visitor space for every 5 units. This would equate to a parking requirement of 11 spaces. It is proposed by the developer that 15 spaces be provided which exceeds requirements.*
- *It is noted that 6 of the car spaces accessed off Condamine Street are accessed via car stackers with vehicle turntables also proposed to assist with access to spaces off both Condamine street and Somerville Place. The use of car stackers and turn tables is considered an over reliance on mechanical devices and is difficult to support particularly where parking exceeds requirements. Their use for visitor and retail customer parking is particularly inappropriate. As all of the spaces accessed off Condamine Street are for visitor or retail uses the existing arrangements off Condamine Street are not supported. The Warringah DCP section C3 outlines that carparking "shall avoid the use of mechanical car stacking spaces" and if the car stackers were removed the development would still provide 12 car spaces which is considered an acceptable level of parking for this development. It is considered that these should be allocated as follows 2 x retail spaces, 2 x visitor spaces (or 1 x visitor and 1 x loading bay) and 8 residential spaces. If all parking were accessed off Somerville Place the use of individual car stacker pairs via a hole in the ground arrangement for residential or retail staff parking requirements could be considered (i.e for spaces used by drivers accessing the spaces on a regular basis over an extended period of time). Any residential spaces in a car stacker pair would need to be allocated to the same unit.*
- *No offstreet loading bay is provided however given the small size of the retail component of the development the absence of a loading bay capable of accommodating a truck is considered acceptable with the majority of deliveries by courier vans and other smaller vehicles considered likely. These deliveries would need to be accommodated within a visitor parking bay (or by reallocation of a visitor bay as a loading bay). The use of spaces within a car stacker for visitor or loading/delivery purposes would however be inappropriate.*
- *Should parking be retained off Condamine Street, the clearance to the roof in the Condamine Street parking level where the car stackers are proposed appears to be less than 3.6m. This would mean that the maximum clearance under the lower level of one of the proposed car stacker units would be less than 2m. Those spaces would not therefore be accessible by many courier vans which are regularly over 2m in height and is another reason why the use of car stackers would be unsuitable for use as courier/delivery bays.*
- *The use of a turntable to access retail customer or visitor parking spaces is also considered inappropriate. These spaces would be accessed by drivers unfamiliar with the location and it is unreasonable to expect them to be confident or capable of using a turntable to access their parking. The use of turntables could only be supported for access to parking used by the same driver on a regular and long term basis i.e for residential spaces or retail staff parking where drivers would be expected to be familiar with how the turntable operates and confident in using it. Irrespective of the use of turntables, there must be provision for drivers accessing all spaces*





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*to turn around to enter and exit the site in a forwards direction. Access to and from all spaces in forwards direction is to be demonstrated by swept path plots (including to spaces used for loading purposes by a B99 vehicle – eg courier van).*

- *It is noted that two accessible parking spaces have been proposed. It is unclear if these spaces are for retail or residential use however 1 x disabled residential space and 1 x retail disabled space (or 1 x disabled visitor space) would be acceptable. If parking arrangements are to be redesigned so that access is solely via Somerville Place, disabled spaces are not appropriate in a car stacker given the need for a unload area adjacent to the space and the additional space needed by some disabled drivers to enter and exit a vehicle. Such spaces would need to be at grade.*

*The development application should be accompanied by a comprehensive traffic and parking impact report and by a set of plans which includes dimensioning of the parking bays, parking aisle and driveway widths. A driveway profile between the kerb alignment and the base of the driveway is also required.”*

### Development Engineers

Council's Development Engineer has provided the following advice:

*“It appears that this PLM is a follow up from a previous meeting and the issues that the applicant is addressing relate to traffic and planning.*

*The comments from Development Engineering remain with respect to the stormwater drainage pit conflict for the proposed driveway access off Condamine St, and the requirement of OSD in accordance with Council's Water Management Policy.*

*Additionally the new plans propose a new driveway access off Somerville Place. The levels at the boundary are to remain across this frontage and the proposed access driveway is to include a layback with a kerb provided for the remainder to ensure no flows from the lane enter the site. Civil engineering plans for the works in the rear lane are to be provided with the DA.”*

### Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Written request to vary development standard
- SEPP 65/ADG Compliance Report and Design Verification Statement
- Scaled and dimensioned plans:
  - Site Plan;
  - Floor Plans;
  - Elevations; and
  - Sections.
- Photomontages taken from both Condamine Street and Somerville Lane
- Landscape Plan
- Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).



- Cost of works estimate from Quantity Surveyor
- Survey Plan (Boundary Identification, Levels and Details Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Civil engineering plans for works in Somerville Lane
- Traffic and Parking Report
- Geotechnical Report
- Construction Management Plan
- BASIX Certificates
- Access Report
- BCA Report
- Schedule of External Finishes

#### **IMPORTANT NOTE FOR DA LODGEMENT**

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>

The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

#### **Concluding Comments**

These notes are in response to a pre-lodgement meeting held on 7 October 2021 to discuss Construction of a Shop Top Housing Development at 291 & 293 Condamine Street MANLY VALE. The notes reference the plans prepared by RFA Architects dated 12 August 2021.

The proposal is not supported in its current form, based on the advice from DSAP and Council's Planner considering the relevant standard and controls that will apply to the site.

A significant re-design of the proposal will be required, based on the following:

- A singular vehicular entrance point from Somerville Lane only;
- Increased retail presence on Condamine Street;
- Reduction in the amount of parking spaces and reliance on car stacker units;
- Relocation of waste storage room to Condamine Street frontage;
- Reconfiguration of residential units to meet ADG standards for solar access and ventilation; and
- Significant modification and reduction of the upper 4<sup>th</sup> storey (as opposed to full deletion as recommended by DSAP) to provide greater front, rear and potentially side setbacks.



### **Concluding Comments**

#### **Question on these Notes?**

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.